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CONGRESSIONAL RECORD — SENATE

December 2, 1974

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

D. Dwayne Keyes, of California, to be U.S. attorney for the eastern district of California for the term of 4 years (re-appointment).

Frank X. Klein, Jr., of California, to be U.S. marshal for the northern district of California for the term of 4 years, vice George E. Tobin, term expired.

George J. Reed, of Oregon, to be a member of the Board of Parole for the term expiring September 30, 1980 (re-appointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, December 9, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE TO BEGIN HEARINGS ON INTELLIGENCE OVERSIGHT BILLS

Mr. MUSKIE. Mr. President, on Monday, and Tuesday, December 9 and 10, the Subcommittee on Intergovernmental Relations will begin hearings on four measures before the subcommittee which propose to increase the role of Congress in its oversight of U.S. intelligence agencies. On these first days of hearings, the subcommittee will hear testimony from Senators, from former Government officials, and from outside experts.

The subcommittee expects to continue these hearings next year. At that time, we will invite testimony from the Federal Bureau of Investigation, the Central Intelligence Agency and other agencies responsible for surveillance and intelligence.

The legislation before the Intergovernmental Relations Subcommittee poses difficult questions which reach some of the fundamental principles of our representative system of government. We hope that this introductory volume of hearings will begin to focus the public's attention on the issues and by the framework for what promises to be an important and absorbing task.

I ask unanimous consent that a staff outline of the bills referred to the Intergovernmental Relations Subcommittee be inserted at this point in the Record.

There being no objection, the outline was ordered to be printed in the Record, as follows:

LEGISLATIVE PROPOSALS TO STRENGTHEN CONGRESSIONAL OVERSIGHT OF INTELLIGENCE AGENCIES

The following proposals designed to strengthen Congressional oversight of the nation's intelligence agencies are presently pending before the Subcommittee on Intergovernmental Relations:

1. S. 4019, introduced by Senators Baker and Weicker, would establish a fourteen-member Joint Committee on Intelligence Oversight. Such Committee would have principal responsibility for all intelligence agency authorizing legislation and for all general oversight of those agencies such as the CIA, FBI, NSA, DIA, etc. The Committee would not, however, take away oversight responsibilities of those committees presently exercising such jurisdiction.

2. S. Res. 419, introduced by Senators Mansfield and Mathias, would create a Select Committee to Study Governmental Operations with Respect to Intelligence Activities. Such Committee would be charged with conducting a two-year study of all United States intelligence agencies and recommending any needed legislation to improve the Congressional oversight role. Membership on the Committee would be composed of four democrats and four republicans.

3. S. 2738, introduced by Senators Nelson and Jackson, would create a Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance. Such Committee would be authorized to make a continuing review of the need to reorganize Federal departments and agencies engaged in investigation or surveillance of individuals, to examine the need for such surveillance, and to recommend any legal or structural changes necessary to protect the privacy of individuals. The Committee would not have jurisdiction over "lawful investigative and/or surveillance activities related to the defense or national security of the United States conducted within the territorial boundaries of the United States," or over "any activities of agencies and departments of the United States government conducted outside the territorial boundaries of the United States." Membership of the Committee would be composed of the majority and minority leaders of the Senate and the House and the chairman and ranking minority members of all congressional committees having jurisdiction over agencies engaged in surveillance activities.

4. S. 1547, introduced by Senator Humphrey, would create a Joint Committee on National Security. Such Committee would be charged with studying and making recommendations concerning: (1) the foreign, domestic and military policies of the United States from the perspective of determining whether such policies are appropriately integrated in furtherance of national security goals; (2) the activities and recommendations of the National Security Council relating to such policies; and (3) Government practices with respect to classification and declassification of documents. Membership on the Committee would be composed of the Speaker of the House, the majority and minority leaders of the House and Senate, the chairman and ranking minority members of the House and Senate Committees on Appropriations, the House and Senate Armed Service Committees, the Senate Foreign Relations and the House Foreign Affairs Committees, and the Joint Committee on Atomic Energy. In addition, three members from each house shall be appointed to sit on the Committee, for a total of twenty-five members.

ANNOUNCEMENT OF HEARINGS ON NOMINATION OF FRANK C. ZARB TO BE ADMINISTRATOR OF FEA

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and other interested persons that the Committee on Interior and Insular Affairs has scheduled an open hearing on the nomination

by the President of Mr. Frank G. Zarb to be Administrator of the Federal Energy Administration. The hearing will be held on Wednesday, December 4, 1974, at 2 p.m. in room 3110, Dirksen Senate Office Building.

Anyone wishing to testify or submit a statement for record with respect to this nomination should so advise the staff of the Interior Committee.

Mr. President, I ask unanimous consent that a biographical sketch of Mr. Zarb be printed in the Record at this point in my remarks.

There being no objection, the biographical sketch was ordered to be printed in the Record, as follows:

FRANK G. ZARB

President Ford has nominated Frank G. Zarb, 39, as Administrator of the Federal Energy Administration.

Mr. Zarb is currently Associate Director of the Office of Management and Budget, Executive Office of the President. In this position he provides executive direction to Federal programs concerned with agriculture, the environment, natural resources, energy and science. These activities include responsibilities for all energy related areas of Government, such as the Department of Interior, Environmental Protection Agency, Council on Environmental Quality, Atomic Energy Commission, Energy Research and Development Administration and other related agencies in the science and technology fields. When President Ford created the Energy Resources Council in 1974, he appointed Mr. Zarb as its first Executive Director, a post he held concurrently with his OMB assignment and will hold in addition to FEA Administrator.

Prior to assuming his OMB position, Mr. Zarb was in charge of OMB's Management and Operations activities. This included direction of a broad range of Federal programs and initiatives, including Government reorganization, evaluation of Federal programs, statistical policy, Federal activities in regional areas, and relations with Governors and Mayors.

Mr. Zarb first joined the Administration in April 1971 as Assistant Secretary of Labor. His most recent position in the private sector was Executive Vice President and Chairman of the Executive Committee of Hayden Stone, Inc., a New York investment and securities firm.

Earlier Mr. Zarb had been with the New York investment houses of Cogan, Berlind, Weill and Levitt, and Goodbody and Company. His first job in industry was with Cities Service Oil Company where he served as management trainee and a member of the Industrial Relations Department.

Mr. Zarb graduated from Hofstra University with a BBA in 1957 and a Master's Degree in 1961. In 1974 the faculty of Hofstra conferred the University's Distinguished Scholar Award to Mr. Zarb. At Hofstra he was a Student Body President, Dean's List student and elected to Who's Who in Colleges and Universities in 1957.

In 1970 he edited The Stock Market Handbook, published by Dow Jones-Irwin, Inc. He organized and served as the first Chairman of the Joint-Bank-Securities Industry Committee for Securities Protection and has held membership with the Board of Arbitrators of the National Association of Securities Dealers, and the Board of Advisors of the New York Institute of Finance. He has been a member of the Chicago Board of Trade and the Chicago Mercantile Exchange and an allied member of the New York Stock Exchange as well as the American and Pacific Coast Stock Exchanges. He has served on the Board of Trustees of the East Woods School, Oyster Bay, New York.

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to today's problems. The Federal Trade Commission has filed a case against the major oil companies which—if they are successful—could lead to restructuring. But the best estimate is that the case will run 8 to 15 years. We cannot wait.

Therefore, I submit an amendment to Senator Buckley's amendment that would tie deregulation of natural gas prices to having a competitive market, a market capable of regulating any abuses in this industry.

Briefly, the amendment would require the top 20 oil companies to restructure themselves—with the approval of the Federal Trade Commission—so they are either a producer, a transportation company or a refiner-marketer. As soon as the company had met this requirement, it would be entitled to the Buckley exemption from price regulation. This, of course, means small producers and integrated companies smaller than the top 20 would be entitled immediately to the Buckley exemption.

Mr. President, I do believe in lessening Government intervention in the market as much as possible while protecting the public interest. Ideally, Government should intervene only in limited areas—such as health and safety. But it is beyond me how Congress could adopt the Buckley amendment—which would cost consumers a conservative \$55 billion the first 5 years—with no assurance that the expenditure would produce sufficient gas.

In an industry with the oligopolistic power this one has, there is not a prayer we would get what we think we are buying with the Buckley amendment. Adding my amendment would increase the odds to make it a pretty good bet indeed.

Mr. President, I ask unanimous consent to have the amendment printed in full at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT NO. 1999

On page 3, line 9, after the word "revenues," add the following new title:

TITLE VIII—PROMOTION OF ENERGY INDUSTRY COMPETITION

DECLARATION OF POLICY

Sec. 801. Congress hereby declares the continuing commitment of the United States to the goal of free enterprise and free market economy which functions fairly and efficiently to allocate resources at the best possible price to the consumer and in a manner consistent with the values of a free society.

DEFINITIONS

Sec. 802. As used in this title:

(1) "Affiliate" means a person controlled by or controlling or under or subject to common control with respect to any other person.

(2) "Asset" means any property (tangible or intangible; real, personal, or mixed) and includes stock in any corporation which is engaged (directly or through a subsidiary or affiliate) in the business of producing, transporting, refining, or marketing energy resource products.

(3) "Commerce" means commerce among the several States, with the Indian tribes, or with foreign nations; or commerce in any State which affects commerce among or between any state and foreign nation.

(4) "Control" means direct or indirect legal or beneficial interest or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements.

(5) "Energy resource product" means petroleum, natural gas, tar sands, oil shale, coal or products refined therefrom.

(6) "Energy marketing asset" means any asset used in the marketing or retail distribution of energy resource products.

(7) "Energy transportation asset" means any asset used in the transportation by pipeline, tanker, or gathering line or energy resource products.

(8) "Energy refinery asset" means any asset used in the refining of energy resource products.

(9) "Energy production asset" means any asset used in the exploration for, development of, or production of energy resource products.

(10) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated.

(11) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

UNLAWFUL RETENTION

Sec. 803. It shall be unlawful for any of the 20 largest major integrated petroleum companies affecting commerce, as identified by the Federal Trade Commission, engaged in the business of exploration for, development of, or production of energy resource products, to own or control any interest, directly or through an affiliate, in any energy refinery asset, energy transportation asset, or energy marketing asset.

Sec. 804. It shall be unlawful for any of the 20 largest major integrated petroleum companies affecting commerce, as identified by the Federal Trade Commission, engaged in the business of transporting energy resource products by energy transportation assets, to own or control any interest, directly or through an affiliate, in any energy production asset, energy refinery asset, or energy marketing asset.

REPORTS

Sec. 805. Each of the 20 largest major integrated petroleum companies affecting commerce, as identified by the Federal Trade Commission, owning or controlling, on the date of enactment of this title, any asset which such person is prohibited from owning or controlling under this title, shall, within one hundred and twenty days after such date, file with the Federal Trade Commission such information and reports relating to such assets and, from time to time, such additional information and reports relating to such assets, as the Federal Trade Commission may require.

ENFORCEMENT

Sec. 806. The Federal Trade Commission, in accordance with such rules, regulations, or orders as it may deem necessary or appropriate to carry out the purposes of this title, shall require each of the 20 largest major integrated petroleum companies affecting commerce, as identified by the Federal Trade Commission, owning or controlling any assets which such person is prohibited from owning or controlling under this title, to submit, within one year from the date of enactment of this title, a plan or plans for the divestment of such assets. If, after notice and opportunity for hearing, the Commission shall find such plan, as submitted or as may be modified by Commission order,

necessary or appropriate to effectuate the provisions of this title and fair and equitable to the persons affected by it, the Commission by order shall approve such plan and shall thereafter take such action by application to a court for such other order as may be necessary to enforce such plan: *Provided, however,* That the Commission shall not approve any plan which will not substantially accomplish the necessary divestment on or before a date not more than five years after enactment of this title.

Sec. 807. (a) In addition, the Federal Trade Commission shall institute suits in the district courts of the United States requesting the issuance of such relief as is appropriate to assure compliance with this title, including orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, the appointment of temporary or permanent receivers or trustees, and punitive damages for willful failure to comply with lawful Commission orders.

(b) In carrying out the provisions of this title, the Federal Trade Commission may utilize all other powers conferred upon it by other provisions of law.

PENALTIES

Sec. 808. Any person who knowingly violates any provision of this title shall, upon conviction, be punished, in the case of an individual, by a fine of not to exceed \$500,000 or by imprisonment for a period not to exceed ten years, or both, or in the case of a corporation, by a fine of not to exceed \$5,000,000 or by suspension of the right to do business in interstate commerce for a period not to exceed ten years, or both. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting the violation in whole or in part, or who shall have omitted to authorize, order, or do any acts which would terminate, prevent, or correct conduct violative of this title. Failure to obey an order of the court pursuant to this title shall be punishable by such court as a contempt of court.

RELATIONSHIP TO NATURAL GAS ACT AMENDMENTS

Sec. 809. The Natural Gas Act Amendments of 1974 shall not become effective as to any of the 20 largest major integrated petroleum companies affecting commerce, as identified by the Federal Trade Commission, until the Federal Trade Commission files a certificate stating that such person is in compliance with the provisions of this title.

AMENDMENT NO. 2000

(Ordered to be printed and to lie on the table.)

Mr. JACKSON (for himself, Mr. Ribicoff, and Mr. Javits) submitted an amendment intended to be proposed by them, jointly, to H.R. 10710, supra.

FOREIGN ASSISTANCE ACT OF 1974—S. 3394

AMENDMENT NO. 2001

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR., submitted an amendment intended to be proposed by him to S. 3394, a bill to amend the Foreign Assistance Act of 1961, and for other purposes.

(The remarks of Mr. HARRY F. BYRD, JR., on the submission of the amendment are printed later in the Record.)